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7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2013-228**

11 **GINA SUZANNE CHENEY**

12 2112 Old Taylor Road, #B7  
13 Oxford, MS 38655

**A C C U S A T I O N**

14 Registered Nurse License No. 607358

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about October 1, 2002, the Board of Registered Nursing issued Registered  
23 Nurse License Number 607358 to Gina Suzanne Cheney ("Respondent"). The Registered Nurse  
24 License expired on June 30, 2006, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1           4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code  
7 provides, in pertinent part, that the Board may renew an expired license at any time within eight  
8 years after the expiration.

9           6.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
10 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
11 disciplinary action during the period within which the license may be renewed, restored, reissued  
12 or reinstated.

13          7.     California Code of Regulations, title 16, section 1419.3 states:

14                 “In the event a licensee does not renew his/her license as provided in  
15 Section 2811 of the code, the license expires. A licensee renewing pursuant to this  
16 section shall furnish a full set of fingerprints as required by and set out in section  
1419(b) as a condition of renewal.

17                 (a) A licensee may renew a license that has not been expired for more  
18 than eight years by paying the renewal and penalty fees as specified in Section 1417  
and providing evidence of 30 hours of continuing education taken within the prior  
two-year period.

19                 (b) A licensee may renew a license that has been expired for more than  
20 eight years by paying the renewal and penalty fees specified in Section 1417 and  
21 providing evidence that he or she holds a current valid active and clear registered  
nurse license in another state, a United States territory, or Canada, or by passing the  
Board's current examination for licensure.”

22          8.     Section 2761 of the Code states in pertinent part:

23                 “The board may take disciplinary action against a certified or licensed  
24 nurse or deny an application for a certificate or license for any of the following:

25                 (a) Unprofessional conduct, which includes, but is not limited to, the  
26 following:

27                 ...

28                 (4) Denial of licensure, revocation, suspension, restriction, or any other  
disciplinary action against a health care professional license or certificate by another  
state or territory of the United States, by any other government agency, or by another

1 California health care professional licensing board. A certified copy of the decision  
2 or judgment shall be conclusive evidence of that action.

3 ...

4 (d) Violating or attempting to violate, directly or indirectly, or assisting  
5 in or abetting the violating of, or conspiring to violate any provision or term of this  
6 chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

7 9. Section 2762 of the Code states:

8 "In addition to other acts constituting unprofessional conduct within the  
9 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
10 person licensed under this chapter to do any of the following:

11 ...

12 (b) Use any controlled substance as defined in Division 10 (commencing  
13 with Section 11000) of the Health and Safety Code, or any dangerous drug or  
14 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or  
15 in a manner dangerous or injurious to himself or herself, any other person, or the  
16 public or to the extent that such use impairs his or her ability to conduct with safety to  
17 the public the practice authorized by his or her license."

### 18 COST RECOVERY

19 10. Section 125.3 of the Code provides:

20 "(a) Except as otherwise provided by law, in any order issued in  
21 resolution of a disciplinary proceeding before any board within the department or  
22 before the Osteopathic Medical Board, upon request of the entity bringing the  
23 proceeding, the administrative law judge may direct a licentiate found to have  
24 committed a violation or violations of the licensing act to pay a sum not to exceed the  
25 reasonable costs of the investigation and enforcement of the case.

26 (b) In the case of a disciplined licentiate that is a corporation or a  
27 partnership, the order may be made against the licensed corporate entity or licensed  
28 partnership.

(c) A certified copy of the actual costs, or a good faith estimate of costs  
where actual costs are not available, signed by the entity bringing the proceeding or  
its designated representative shall be prima facie evidence of reasonable costs of  
investigation and prosecution of the case. The costs shall include the amount of  
investigative and enforcement costs up to the date of the hearing, including, but not  
limited to, charges imposed by the Attorney General.

(d) The administrative law judge shall make a proposed finding of the  
amount of reasonable costs of investigation and prosecution of the case when  
requested pursuant to subdivision (a). The finding of the administrative law judge  
with regard to costs shall not be reviewable by the board to increase the cost award.  
The board may reduce or eliminate the cost award, or remand to the administrative  
law judge if the proposed decision fails to make a finding on costs requested pursuant  
to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not  
made as directed in the board's decision, the board may enforce the order for

1 repayment in any appropriate court. This right of enforcement shall be in addition to  
2 any other rights the board may have as to any licentiate to pay costs.

3 (f) In any action for recovery of costs, proof of the board's decision shall  
4 be conclusive proof of the validity of the order of payment and the terms for payment.

5 (g) (1) Except as provided in paragraph (2), the board shall not renew or  
6 reinstate the license of any licentiate who has failed to pay all of the costs ordered  
7 under this section.

8 (2) Notwithstanding paragraph (1), the board may, in its discretion,  
9 conditionally renew or reinstate for a maximum of one year the license of any  
10 licentiate who demonstrates financial hardship and who enters into a formal  
11 agreement with the board to reimburse the board within that one-year period for the  
12 unpaid costs.

13 (h) All costs recovered under this section shall be considered a  
14 reimbursement for costs incurred and shall be deposited in the fund of the board  
15 recovering the costs to be available upon appropriation by the Legislature.

16 (i) Nothing in this section shall preclude a board from including the  
17 recovery of the costs of investigation and enforcement of a case in any stipulated  
18 settlement.

19 (j) This section does not apply to any board if a specific statutory  
20 provision in that board's licensing act provides for recovery of costs in an  
21 administrative disciplinary proceeding.

22 (k) Notwithstanding the provisions of this section, the Medical Board of  
23 California shall not request nor obtain from a physician and surgeon, investigation  
24 and prosecution costs for a disciplinary proceeding against the licentiate. The board  
25 shall ensure that this subdivision is revenue neutral with regard to it and that any loss  
26 of revenue or increase in costs resulting from this subdivision is offset by an increase  
27 in the amount of the initial license fee and the biennial renewal fee, as provided in  
28 subdivision (e) of Section 2435."

### **FIRST CAUSE FOR DISCIPLINE**

#### **(Disciplinary Action by the Mississippi Board of Nursing)**

21 11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of  
22 the Code in that Respondent was disciplined by the Mississippi Board of Nursing ("Mississippi  
23 Board"), as follows:

24 12. On or about March 6, 2008, the Mississippi Board made findings of fact, conclusions  
25 of law and issued a final order and revoked Respondent's license in that state. The circumstances  
26 underlying the disciplinary action by the Mississippi Board are that on or about November 8,  
27 2006, Respondent submitted to a random employment drug screen, the result of which was  
28 positive for Cocaine.

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1 PRAYER

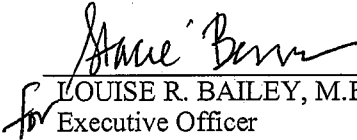
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 607358, issued to Gina  
5 Suzanne Cheney;

6 2. Ordering Gina Suzanne Cheney to pay the Board of Registered Nursing the  
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.  
10  
11

12 DATED: October 02, 2012

13   
14 LOUISE R. BAILEY, M.ED., RN  
15 Executive Officer  
16 Board of Registered Nursing  
17 Department of Consumer Affairs  
18 State of California  
19 Complainant  
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